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6 IN THE UNITED STATES DISTRICT COURT
7 FOR THE DISTRICT OF ARIZONA

8
9 Maryann G. Cruz,) No. CV-11-0077-PHX-FJM
10 Plaintiff,)
11 vs.)
12 Michael J. Astrue,)
13 Defendant.)
14 _____)

15) **ORDER**
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17 Almost a year ago, on August 8, 2011, we granted the Commissioner's motion to
18 remand this case to the Social Security Administration to allow the Commissioner to
19 supplement the administrative record (doc. 15). We ordered the Commissioner to file his
20 modified findings and decision with this court no later than May 15, 2012. After that
21 deadline passed without a word from the Commissioner, we issued an order requiring the
22 Commissioner to either supplement the findings and record no later than June 15, 2012, or
23 we would vacate the remand and reinstate the appeal. The Commissioner responded by
24 saying only that a hearing on plaintiff's claim is scheduled for September 6, 2012, giving no
25 indication when the record or findings would be supplemented.

26 We are well aware of the scandalous delay in the processing of social security cases
27 by the Commissioner. In this case, the administrative law judge denied plaintiff's application
28 for benefits on October 23, 2008. It took the Appeals Council two years just to deny review

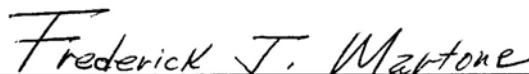
1 of the ALJ's decision. It is now almost two years since the Appeals Council denied review
2 and the Commissioner continues to indefinitely delay a final decision on plaintiff's
3 application for benefits, now in contemptuous disregard of our orders.

4 This case involves the denial of benefits during a closed period of disability
5 commencing July 13, 2006, and ending June 30, 2009. In a separate application for benefits,
6 plaintiff was found to be disabled as of July 1, 2009 and continuing.

7 Because the Commissioner has failed to comply with our deadlines on remand, we
8 now vacate the order remanding the case to the Commissioner. We consider the
9 Commissioner's request for remand and subsequent failure to comply with our orders a
10 confession of error with regard to its decision denying benefits during the closed period.
11 Accordingly, we reverse the decision of the Commissioner finding that plaintiff was not
12 disabled and remand this case for an immediate award of benefits during the closed period.

13 **IT IS ORDERED VACATING** the remand, **REVERSING** the Commissioner's
14 decision denying benefits, and **REMANDING** this case to the Commissioner pursuant to
15 sentence four of 42 U.S.C. § 405(g) for an immediate award of benefits during the closed
16 period commencing July 13, 2006, and ending June 30, 2009.

17 DATED this 3rd day of July, 2012.

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Frederick J. Martone
United States District Judge

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